



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
445 12th STREET, S.W.
WASHINGTON, D.C. 20554

News Media Information: (202) 418-0500
Fax-On-Demand: (202) 418-2830
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

DA 99-3006
Released: December 28, 1999

WIRELESS TELECOMMUNICATIONS BUREAU ANNOUNCES PRELIMINARY IMPLEMENTATION PROCEDURES FOR 218-219 MHZ SERVICE (FORMERLY KNOWN AS INTERACTIVE VIDEO AND DATA SERVICE (IVDS))

Background

On September 10, 1999, the Federal Communications Commission ("Commission") issued the *218-219 MHz Order*, which modified the licensing rule for the 218-219 MHz Service (formerly known as IVDS) to maximize the efficient and effective use of the band.¹ The *218-219 MHz Order*, among other things, modified service and technical rules for the band and extended the license term from five to ten years.² The Commission also adopted a restructuring plan for existing licensees that (i) were current in installment payments as of March 16, 1998; (ii) were less than ninety days delinquent on the last payment due before March 16, 1998; or (iii) had properly filed grace period requests under the former installment payment rules ("Eligible Licensees").³ The Commission permitted Eligible Licensees to choose between three options: (i) Reamortization and Resumption of Payments, (ii) Amnesty, or (iii) Prepayment.⁴ Eligible Licensees that fail to submit an election with respect to any license by Election Day (February 29, 2000) will be assumed to have elected Amnesty.⁵

¹ See In the Matter of Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218-219 MHz Service, *Report and Order and Memorandum Opinion and Order*, FCC 99-239, WT Docket No. 98-169, RM-8951, (rel. Sept. 10, 1999) at 3, ¶2. (*218-219 MHz Order*).

² See *Id.* at ¶31.

³ See *Id.* at ¶37.

⁴ See *Generally Id.* at 26-33.

⁵ Election Day refers to the date on which eligible licensees must elect one of the three restructuring options adopted in the *218-219 MHz Order*, and falls on the last day of the third month following publication of the *218-219 MHz Order* in the Federal Register. See *Id.* at ¶54 (f.n.178). See generally 64 FR 59656 (November 3,

The licenses that were held by entities that made second down payments and (i) made some installment payments, but were not current in their installment payments as of March 16, 1998, and did not have grace period requests on file in conformance with the former rules; and/or (ii) entities that never made any installment payments (“Ineligible Entities”), cancelled automatically.⁶ Ineligible Entities will be granted debt forgiveness for any outstanding balances owed and previously paid installment payments will be refunded subject to approval from the Department of Justice (“DOJ”).⁷

Notification of Eligibility

The Commission will provide written notification to all Eligible Licensees and Ineligible Entities of their eligibility to make elections. We will include a history of installment payments for each license, as well as instructions for entities that believe their eligibility has been incorrectly classified due to administrative error.

Elections and Implementation Procedures

“Election Day,” *i.e.* the date by which Eligible Licensees must notify the Commission of the restructuring option under which they will participate, is February 29, 2000. We will resume collection of installment payments beginning May 31, 2000.⁸ **Prior to Election Day, the Commission will issue a Public Notice providing detailed implementation procedures and specific instructions on how to file elections.**

1999).

⁶ 47 C.F.R. § 95.816(d)(3) (1994) (incorporating by reference 47 C.F.R. § 1.2110 (1994)). *See also Mountain Solutions v FCC*, No. 98-1503 (D.C. Cir. Dec. 3, 1999) upholding the Commission’s decision, in a PCS licensing matter, to deny a waiver of its rule requiring a winning bidder to timely submit both its first and second down payment in order to retain its license.

⁷ *Id.* at ¶38. This debt treatment is subject to the following provisions: 31 U.S.C. §3711 and 31 U.S.C. §3720B. Only the United States Department of Justice may compromise a claim in excess of \$100,000. *See* 4 C.F.R. §103.1. *See also* 31 U.S.C. §3711. Under the Debt Collection Improvement Act no person may obtain any federal financial assistance if the person had an outstanding debt with any federal agency which is in a delinquent status, as determined under standards prescribed by the Secretary of Treasury. Pub. L. No. 104-134, §3100(j)(1), 110 Stat. 1321 (1996), codified at 31 U.S.C. §3720B.

⁸ *Id.* at ¶44 (f.n.155). *See 218-219 MHz Order*, 64 FR 59656 (November 3, 1999).

License Renewals

In the *218-219 MHz Order*, the Commission extended the license term from five to ten years.⁹ When the new rules take effect on January 3, 2000, the Commission will modify its licensing records to reflect the ten-year terms. Consequently, no license renewals are necessary at this time for licenses that were issued in 1995 with a year 2000 expiration date.

Construction Benchmarks

In the *218-219 MHz Order*, the Commission adopted, in conjunction with ten-year licensing terms, a ten-year substantial service construction requirement for renewal of both lottery and auction license winners.¹⁰ The substantial service requirement replaces three- and five-year construction benchmarks under our prior rules.

Order on Reconsideration Issued

On November 30, 1999, the Commission issued the *218-219 MHz Order on Reconsideration* altering the terms of the Amnesty election option. The *218-219 MHz Order* allowed an Eligible Licensee that chose Amnesty to either (1) receive no credit for its down payment but remain eligible to bid on the surrendered licenses when subsequently auctioned, without restriction on after-market acquisitions, or (2) obtain a credit for seventy (70%) percent of its down payment and forego for a period of two years, beginning with the subsequent auction, eligibility to reacquire the surrendered licenses through either auction or any secondary market transaction.¹¹ The *218-219 MHz Order on Reconsideration* eliminated the second Amnesty option.

⁹ See *218-219 MHz Order* at ¶31.

¹⁰ *Id.* at ¶75.

¹¹ See *Id.* at ¶¶22, 40-53.

DOJ Approval

The debt forgiveness portion of the restructuring plan contained in the *218-219 MHz Order* is subject to DOJ approval, which the Commission is currently seeking. Notification of DOJ approval will be provided in a future Public Notice.

To Obtain Information

Web site

Documents related to this rule making proceeding and its implementation may be found on the Federal Communications Commission web site located at [http://www.fcc.gov/wtb/auctions/218 rest/218 rest.html](http://www.fcc.gov/wtb/auctions/218%20rest/218%20rest.html).

FCC Reference Center

Documents related to this rule making proceeding and its implementation may also be examined and copied during normal business hours in the FCC Reference Center, 445 12th Street, SW, Room CY-A257, Washington, DC 20554, telephone (202) 418-0270.

ITS

In addition, documents may be purchased from the Commission's copy contractor, ITS, Inc., 1231 20th Street, NW, Washington, DC 20036, telephone (202) 857-3800.

Contacts

Questions regarding this *Public Notice* should be directed to Ben Freeman or Nicole Oden of the Auctions and Industry Analysis Division at (202) 418-0660 or Jamison Prime of the Public Safety and Private Wireless Division at (202) 418-0680.